

Police May Question Suspect for 3 Hours Under New Rules

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The Justice Department set new guidelines yesterday for Washington's Police Department to use in questioning persons arrested for probable cause.

The procedures will be put into effect as soon as orders can be issued to police officers, Police Chief John Layton said.

At the same time, the Justice Department asked Congress to hold off on legislation that would modify the Supreme Court's Mallory Rule and other court decisions on the admissibility of confessions at a trial.

Instead, Justice asked Congress to enact a package of bills to reduce "the incidence of crime and protect the citizens in the streets."

Gun Bills Included

Included in the request were bills tightening restrictions on guns, providing additional judges for the Court of General Sessions, giving police new crime detection tools, adding to the Recreation Department's roving leaders bureau and new laws to deal with alcoholism and narcotics addiction.

Under the new procedures, police will be able to question three hours but with stringent limitations. The suspect must be advised that he need not answer any question, that any statement given may be used against him, that he may consult an attorney, a relative or a friend and that if he is charged and cannot afford a lawyer the court will appoint one for him.

Police officers are to keep records on the time and circumstances of the questioning

and, where possible, record the proceedings.

The three hours need not be consecutive but may be broken into intervals. Arraignment is not to be delayed. The suspect is to be taken before a magistrate and formally charged at the first available time.

The views of the Justice Department were outlined by Deputy Attorney General Ramsey Clark and U.S. Attorney David C. Acheson at hearings yesterday before the Senate District Committee, which has under consideration several legislative proposals modifying the Mallory Rule.

Under the Mallory, Rule, a confession may not be used as evidence in court if it was obtained by Police during an unreasonable delay between arrest and arraignment.

Commenting on the Mallory Rule, Clark said there is no evidence that court interpretations "are a direct causative factor in crime or an increase," but, he said, "It is clear that Mallory as applied has impaired effective police investigation."

Layton said the new procedures relieve the situation under which police have been working since last October. At that time, Acheson advised police officers that persons under arrest should not be questioned at a police station until after arraignment.

Have "Working Room"

The Chief said police will now have "some working room." As a result, he expects police will be able to recover more stolen property, clear up multiple offenses and be more specific on what charge should be placed against a suspect.

The new procedures were

based on a study by the Justice Department in conjunction with the Police Department and conducted over the past six months.

Clark said they will afford "an immediate opportunity for a fair and more effective police investigation and adequate protection of the rights of suspects." This view later was contested by Sen. Wayne

Morse (D-Ore.), a former law school dean.

If Clark and Acheson were students in his constitutional law class and had submitted such a paper, "they would have flunked the course," Morse commented.

The National Capital Area Civil Liberties Union also raised objections. Chairman Monroe H. Freedman said the procedures reinstitute "the offensive practice of investigative arrests."

Clark testified that experience under the new procedures would build "a solid basis" for future legislation in the field.

"While we cannot be certain that statements made in compliance with this procedure will be admitted in evidence by every judge in every case, the courts will be given an opportunity to pass upon statements made under such conditions and may well find that Mallory does not require their exclusion," Clark said.

He also pointed out that administrative procedures can be more flexible and would avoid the broad Constitutional test that a statute would entail.

Recommended procedures are similar to those recommended by the Justice Department last year for incorporation in a bill later cleared by the Senate District Committee but not considered by the Senate. That bill allowed six hours for questioning between arrest and arraignment.

Senate District Committee Chairman Alan Bible (D-Nev.) said further hearings will be held next week to take testimony from Chief Layton and Board of Commissioners President Walter N. Tobriner. The Committee will then be in executive session to decide what to do.

Bible has been anxious to have legislation enacted this year and indicated he may want to see the recommended procedures written into law.